IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1865 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SHANTILAL KESHAVLAL PATEL

Versus

G S R T CORPN

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Appearance:

MR PRABHAKAR UPADHYAY for MR MUKESH H RATHOD for Petitioner

MR HARDIK C RAWAL for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/11/2000

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. Rule. The learned counsel for the respondents waives services of Rule on behalf of respondents.

#. The petitioner was dismissed from services on the misconduct of remaining absent from duty under the order of the respondents dated 15th December, 1986. The respondents filed an application for approval of this action which came to be rejected on 9.1.89 by the Conciliation Officer, Surat. That order dated 9.1.89 of the Conciliation Officer has been challenged by respondents in this court in the special civil application No.4191/89. Though that petition has been admitted on 18th December, 1990 but interim relief has not been granted. The special civil application No.4191/89 has been dismissed. When the Conciliation Officer has declined to grant approval to the action of the respondents to dismiss the petitioner from services and this court has not protected the respondents, the petitioner is entitled for all consequential benefits, i.e. reinstatement in service as well as full backwages. In fact, on rejection of the application of the Corporation for approval to this action to dismiss the petitioner from services, the petitioner should have been reinstated back in services. In all the eventualities when this court has not granted interim relief in favour of respondents, I fail to see any justification with the Corporation even thereafter not to reinstate the petitioner in services.

#. As a result of aforesaid discussion, this petition succeeds and the same is allowed and the respondents are directed to reinstate the petitioner forthwith in service. The petitioner shall be entitled for backwages from the date of dismissal to the date of reinstatement with all other consequential benefits, i.e. yearly increments, revision of pay scales, if any made and all other service benefits which are given to other employees. The petitioner shall also be entitled for interest on arrears of backwages at the rate of 18% p.a. from the date of filing of this petition till the date of payment of the amount.

#. The State Road Transport Corporation is an impersonal machinery but if any loss is suffered by it or it is financially burdened because of carelessness, recklessness, negligence or inaction or omission on the part of its officers, it should not suffer as it will result in suffering to the public at large. If any money which otherwise is not payable to the employee is to be paid to him because of carelessness, recklessness, negligence or inaction or omission of the officer of this

impersonal machinery, it is against the public interest and it cannot be tolerated. Here is the case where when the action of the Corporation to dismiss the petitioner from the services was not approved by the Conciliation Officer and as such, immediately thereafter he should have been reinstated back in service or immediately all steps should have been taken to challenge that order and in this case, special civil application is filed but interim relief was not granted in favour of the Corporation. After the date on which this court has not granted interim relief in favour of the Corporation, I fail to see any justification, not to reinstate the petitioner back in service. It is a clear case of carelessness, recklessness, negligence or inaction or omission on the part of the officers of impersonal machinery not to reinstate back the petitioner in service. Not only this, thereafter till date, the respondents have not bothered, cared and worried to reinstate the petitioner in service as a result of which, now this petitioner will get all the backwages without doing any work and it is directly a public loss being a loss to the Corporation and against public interest. Why for this carelessness, recklessness, negligence or inaction or omission on the part of the officers of impersonal machinery, the Corporation has to suffer. The Chairman of the Corporation is directed to hold inquiry in the matter and whosoever is found negligent in the matter, this amount of backwages as well as other amount of consequential benefits and interest to be paid to the petitioner in pursuance of this order of the court and the costs of this petition awarded, is to be recovered from that officer/s. This exercise is to be undertaken and completed within six months from the date of receipt of writ of this order and compliance of this order be reported to this court. Rule is made absolute. The respondents are directed to pay costs of this petition to the petitioner which is quantified at Rs.2,000.

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sunil